

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TAMMY A. ROBERTS,)	
)	
Plaintiff,)	
)	
v.)	No. 07 CV 6223
)	
CALUM MACDONALD, Individually)	
and as agent of WESTERN EXPRESS,)	
INC., a foreign corporation,)	
and WESTERN EXPRESS, INC.,)	
a foreign corporation,)	
)	
Defendants.)	

**MOTION FOR QUALIFIED PROTECTIVE ORDER PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 26(c)**

NOW COME the Defendants, WESTERN EXPRESS, INC. and CALUM MACDONALD, by their attorneys, LEW R.C. BRICKER, JOHN C. NEEL, and pursuant to 42. U.S.C. Section 1320 D and 45 C.F.R. Parts 160 and 164 (hereinafter referred to as "HIPAA") and Federal Rule of Civil Procedure 26(c), request that this Court enter a Qualified Protective Order pertaining to the medical records of the plaintiff, TAMMY A. ROBERTS. In support of this motion, the Defendants state as follows:

1. The plaintiff has alleged in the underlying complaint that among other things, she has suffered a physical injury.
2. The treating physicians, hospitals and other healthcare providers disclosed or to be disclosed by the plaintiff in this case are all "entities" as defined by 45 C.F.R. 160.103. HIPAA potentially prohibits covered entities from disclosing protected health information in judicial proceedings other than by authorization or Qualified Protective Order. 45 C.F.R. Section 164.512(e).
3. The previously referenced covered entities are all in possession of "protected health information as defined by 45 C.F.R. 160.103 and 160.501, in the form of medical records

Case 1:07-cv-06223 Document 13 Filed 01/31/2008 Page 2 of 2
(imaging, test results, insurance documents, notes, orders, labs, correspondence, pathology reports, etc.) pertaining to the plaintiff.

4. Both the prosecution and the defense of this lawsuit will require that the parties, their attorneys, their attorneys' agents, consultants and various witnesses and other personnel receive and review copies of the protected health information pertaining to the plaintiff, which is in the treating providers' possession.

5. Accordingly, the Defendants, WESTERN EXPRESS, INC. and CALUM MACDONALD, respectfully requests that this Court enter the proposed Order permitting the use and disclosure of personal health information pertaining to the plaintiff.

WHEREFORE, Defendants, WESTERN EXPRESS, INC. and CALUM MACDONALD, respectfully request that this Court enter the proposed Order attached hereto permitting the use and disclosure of personal health information created or received by any covered entity who has provided healthcare to the plaintiff, TAMMY A. ROBERTS, for any purpose connected with the pending litigation.

Respectfully Submitted,

SMITHAMUNDSEN LLC

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